

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Adam Zahs,**  
Appellant,

**v.**

**Polk County Board of Review,**  
Appellee.

**ORDER**

**Docket No. 13-77-0813**  
**Parcel No. 110/03677-001-000**

On January 30, 2014, the above-captioned appeal came on for consideration before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Adam Zahs was self-represented and requested the appeal proceed without a hearing. Assistant Polk County Attorneys Ralph Marasco, Jr. and David Hibbard represent the Board of Review. The Appeal Board, having reviewed the record and being fully advised, finds:

***Findings of Fact***

Adam Zahs is the owner of a residentially classified property located at 1340 Hull Street, Des Moines, Iowa. The property is a one-and-a-half-story, two-family conversion built in 1952 with 1683 square feet of total living area. The property has a full, unfinished basement and a small open porch. The site is 0.158 acres. The record indicates the property was in below-normal condition at the time of the assessment.

Zahs protested to the Board of Review regarding the 2013 assessment of \$73,700, allocated as \$15,000 in land value and \$58,700 in improvement value. The subject has an urban revitalization abatement, which results in an adjusted total taxable value of \$61,080. Zahs claimed the property was assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), and

asserted the correct total value was \$31,250. The Board of Review reduced the assessment to \$54,100, allocated as \$14,300 in land value and \$39,800 in improvement value.

Zahs then appealed to this Board re-asserting his claim.

Zahs' written explanation states the subject was foreclosed on in June 2011 and then listed for sale in February 2012. It was systematically reduced until Zahs purchased it in November 2012 for \$31,250. He also writes the property had been vacant since its foreclosure and vandalized several times. Foreclosures, or bank-owned sales, are not considered arm's-length transactions for assessment purposes and would not be considered for a market value claim unless it was adjusted for the distorting factor. Zahs asserts that despite the property being bank-owned at the time of sale, the sale price is reflective of its fair market value. However, he does not provide any evidence to support this opinion.

Zahs also asserts the subject property is a single-family residential home, not a two-family property as noted on the property record card. He claims the subject does not have a driveway off of Hull Avenue, and the only driveway access is an alley, which is not plowed in the winter and inaccessible when there is snow. He notes the subject is located next door to a commercial property, which he asserts is not an appealing view. Finally, he asserts the sewer has draining issues and the roof needs replaced. He did not provide any evidence of how these issues affect the value of the subject property.

The Certified Record includes an Appraiser Analysis completed by Appraiser Catron in the Polk County Assessor's Office. Catron notes during a May 2013 exterior inspection of the property, a person from the assessor's office observed the subject had two electric and gas meters and still appears to be a two-family residence. Catron's analysis recommend an occupancy change from duplex to two-family conversion and a change in condition rating change from below normal to poor. Additionally, Catron recommended a -5% economic adjustment because the subject is located adjacent to a commercial business. The Board of Review apparently accepted all of Catron's recommendations

and reduced the assessment. We recommend Zahs request an interior inspection of the property to correct any other possible listing errors he believes exist.

### ***Conclusion of Law***

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin Cnty. Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

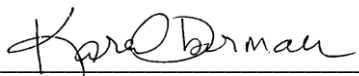
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. §441.21(1)(b). In interpreting this provision, the Iowa Supreme Court has stated that while the sales price of a property may be evidence of its market value, the sales price *alone* is not determinative of the market value. *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289 (Iowa 1996). Rather, the subject property's sales price in a normal transaction is a matter to be considered in arriving at market value but does not *conclusively* establish the subject's market value. *Id.* at 290. However, foreclosures and lender sales are not considered normal transactions and require adjustments to be used as comparable

sales. § 441.21(1)(b). If sales are not available to determine market value then “other factors,” such as income and/or cost, may be considered. § 441.21(2). The property’s assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property’s correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Zahs did not provide sufficient evidence, such as adjusted comparable sales, an appraisal, or other methods of valuation to establish the subject property’s fair market value as of January 1, 2013. The fact that Zahs purchased the property as a foreclosure makes the transaction abnormal and adjustments must be made to eliminating the distorting effect. However, Zahs’ sale price was not adjusted to compensate for the abnormal sale condition nor did he provide any other evidence of market value. Thus, he failed to show his property is over-assessed.

THE APPEAL BOARD ORDERS the 2013 assessment of Adam Zahs’ property located at 1340 Hull Street, Des Moines, Iowa is affirmed.

Dated this 18th day of February 2014.

  
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Karen Oberman, Presiding Officer

  
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Stewart Iverson, Board Chair

  
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Jacqueline Rypma, Board Member

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